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1 AMENDMENT TO HOUSE BILL 4024

2 AMENDMENT NO. _____. Amend House Bill 4024 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Elder Abuse and Neglect Act is amended by
5 changing Sections 2, 3, 3.5, 4, 4.2, 5, 8, 9, and 13 and by
6 adding Section 8.5 as follows:

7 (320 ILCS 20/2) (from Ch. 23, par. 6602)

8 Sec. 2. Definitions. As used in this Act, unless the
9 context requires otherwise:

10 (a) "Abuse" means causing any physical, mental or sexual
11 injury to an eligible adult, including exploitation of such
12 adult's financial resources.

13 Nothing in this Act shall be construed to mean that an
14 eligible adult is a victim of abuse or neglect for the sole
15 reason that he or she is being furnished with or relies upon
16 treatment by spiritual means through prayer alone, in
17 accordance with the tenets and practices of a recognized church
18 or religious denomination.

19 Nothing in this Act shall be construed to mean that an
20 eligible adult is a victim of abuse because of health care
21 services provided or not provided by licensed health care
22 professionals.

23 (a-5) "Abuser" means a person who abuses, neglects, or
24 financially exploits an eligible adult.

1 (a-7) "Caregiver" means a person who either as a result of
2 a family relationship, voluntarily, or in exchange for
3 compensation has assumed responsibility for all or a portion of
4 the care of an eligible adult who needs assistance with
5 activities of daily living.

6 (b) "Department" means the Department on Aging of the State
7 of Illinois.

8 (c) "Director" means the Director of the Department.

9 (d) "Domestic living situation" means a residence where the
10 eligible adult lives alone or with his or her family or a
11 caregiver, or others, or a board and care home or other
12 community-based unlicensed facility, but is not:

13 (1) A licensed facility as defined in Section 1-113 of
14 the Nursing Home Care Act;

15 (2) A "life care facility" as defined in the Life Care
16 Facilities Act;

17 (3) A home, institution, or other place operated by the
18 federal government or agency thereof or by the State of
19 Illinois;

20 (4) A hospital, sanitarium, or other institution, the
21 principal activity or business of which is the diagnosis,
22 care, and treatment of human illness through the
23 maintenance and operation of organized facilities
24 therefor, which is required to be licensed under the
25 Hospital Licensing Act;

26 (5) A "community living facility" as defined in the
27 Community Living Facilities Licensing Act;

28 (6) A "community residential alternative" as defined
29 in the Community Residential Alternatives Licensing Act;

30 ~~and~~

31 (7) A "community-integrated living arrangement" as
32 defined in the Community-Integrated Living Arrangements
33 Licensure and Certification Act; and

34 (8) An assisted living or shared housing establishment

1 as defined in the Assisted Living and Shared Housing Act;

2 or

3 (9) A supportive living facility as described in
4 Section 5-5.01a of the Illinois Public Aid Code.

5 (e) "Eligible adult" means a person 60 years of age or
6 older who resides in a domestic living situation and is, or is
7 alleged to be, abused, neglected, or financially exploited by
8 another individual or who neglects himself or herself.

9 (f) "Emergency" means a situation in which an eligible
10 adult is living in conditions presenting a risk of death or
11 physical, mental or sexual injury and the provider agency has
12 reason to believe the eligible adult is unable to consent to
13 services which would alleviate that risk.

14 (f-5) "Mandated reporter" means any of the following
15 persons while engaged in carrying out their professional
16 duties:

17 (1) a professional or professional's delegate while
18 engaged in: (i) social services, (ii) law enforcement,
19 (iii) education, (iv) the care of an eligible adult or
20 eligible adults, or (v) any of the occupations required to
21 be licensed under the Clinical Psychologist Licensing Act,
22 the Clinical Social Work and Social Work Practice Act, the
23 Illinois Dental Practice Act, the Dietetic and Nutrition
24 Services Practice Act, the Marriage and Family Therapy
25 Licensing Act, the Medical Practice Act of 1987, the
26 Naprapathic Practice Act, the Nursing and Advanced
27 Practice Nursing Act, the Nursing Home Administrators
28 Licensing and Disciplinary Act, the Illinois Occupational
29 Therapy Practice Act, the Illinois Optometric Practice Act
30 of 1987, the Pharmacy Practice Act of 1987, the Illinois
31 Physical Therapy Act, the Physician Assistant Practice Act
32 of 1987, the Podiatric Medical Practice Act of 1987, the
33 Respiratory Care Practice Act, the Professional Counselor
34 and Clinical Professional Counselor Licensing Act, the

1 Illinois Speech-Language Pathology and Audiology Practice
2 Act, the Veterinary Medicine and Surgery Practice Act of
3 2004, and the Illinois Public Accounting Act;

4 (2) an employee of a vocational rehabilitation
5 facility prescribed or supervised by the Department of
6 Human Services;

7 (3) an administrator, employee, or person providing
8 services in or through an unlicensed community based
9 facility;

10 (4) any accredited religious practitioner who provides
11 treatment by spiritual means alone through prayer in
12 accordance with the tenets and practices of the accrediting
13 church, except as to information received in any confession
14 or sacred communication enjoyed by the discipline of the
15 accrediting church to be held confidential ~~a Christian~~
16 ~~Science Practitioner~~;

17 (5) field personnel of the Department of Public Aid,
18 Department of Public Health, and Department of Human
19 Services, and any county or municipal health department;

20 (6) personnel of the Department of Human Services, the
21 Guardianship and Advocacy Commission, the State Fire
22 Marshal, local fire departments, the Department on Aging
23 and its subsidiary Area Agencies on Aging and provider
24 agencies, and the Office of State Long Term Care Ombudsman;

25 (7) any employee of the State of Illinois not otherwise
26 specified herein who is involved in providing services to
27 eligible adults, including professionals providing medical
28 or rehabilitation services and all other persons having
29 direct contact with eligible adults;

30 (8) a person who performs the duties of a coroner or
31 medical examiner; or

32 (9) a person who performs the duties of a paramedic or
33 an emergency medical technician.

34 (g) "Neglect" means another individual's failure to

1 provide an eligible adult with or willful withholding from an
2 eligible adult the necessities of life including, but not
3 limited to, food, clothing, shelter or medical care. This
4 subsection does not create any new affirmative duty to provide
5 support to eligible adults. Nothing in this Act shall be
6 construed to mean that an eligible adult is a victim of neglect
7 because of health care services provided or not provided by
8 licensed health care professionals.

9 (h) "Provider agency" means any public or nonprofit agency
10 in a planning and service area appointed by the regional
11 administrative agency with prior approval by the Department on
12 Aging to receive and assess reports of alleged or suspected
13 abuse, neglect, or financial exploitation.

14 (i) "Regional administrative agency" means any public or
15 nonprofit agency in a planning and service area so designated
16 by the Department, provided that the designated Area Agency on
17 Aging shall be designated the regional administrative agency if
18 it so requests. The Department shall assume the functions of
19 the regional administrative agency for any planning and service
20 area where another agency is not so designated.

21 (i-5) "Self-neglect" means a condition that is the result
22 of an eligible adult's inability, due to physical or mental
23 impairments, or both, or a diminished capacity, to perform
24 essential self-care tasks that substantially threaten his or
25 her own health, including: providing essential food, clothing,
26 shelter, and medical care; and obtaining goods and services
27 necessary to maintain physical health, mental health,
28 emotional well-being, and general safety.

29 (j) "Substantiated case" means a reported case of alleged
30 or suspected abuse, neglect, or financial exploitation in which
31 a provider agency, after assessment, determines that there is
32 reason to believe abuse, neglect, or financial exploitation has
33 occurred.

34 (Source: P.A. 92-16, eff. 6-28-01; 93-281 eff. 12-31-03;

1 93-300, eff. 1-1-04; revised 9-22-03.)

2 (320 ILCS 20/3) (from Ch. 23, par. 6603)

3 Sec. 3. Responsibilities.

4 (a) The Department shall establish, design and manage a
5 program of response and services for persons 60 years of age
6 and older who have been, or are alleged to be, victims of
7 abuse, neglect, ~~or~~ financial exploitation, or self-neglect.
8 The Department shall contract with or fund or, contract with
9 and fund, regional administrative agencies, provider agencies,
10 or both, for the provision of those functions, and, contingent
11 on adequate funding, with attorneys or legal services provider
12 agencies for the provision of legal assistance pursuant to this
13 Act.

14 (b) Each regional administrative agency shall designate
15 provider agencies within its planning and service area with
16 prior approval by the Department on Aging, monitor the use of
17 services, provide technical assistance to the provider
18 agencies and be involved in program development activities.

19 (c) Provider agencies shall assist, to the extent possible,
20 eligible adults who need agency services to allow them to
21 continue to function independently. Such assistance shall
22 include but not be limited to receiving reports of alleged or
23 suspected abuse, neglect, ~~or~~ financial exploitation, or
24 self-neglect, conducting face-to-face assessments of such
25 reported cases, determination of substantiated cases, referral
26 of substantiated cases for necessary support services,
27 referral of criminal conduct to law enforcement in accordance
28 with Department guidelines, and provision of case work and
29 follow-up services on substantiated cases.

30 (Source: P.A. 90-628, eff. 1-1-99.)

31 (320 ILCS 20/3.5)

32 Sec. 3.5. Other Responsibilities. The Department shall

1 also be responsible for the following activities, contingent
2 upon adequate funding:

3 (a) promotion of a wide range of endeavors for the purpose
4 of preventing elder abuse, neglect, ~~and~~ financial
5 exploitation, and self-neglect in both domestic and
6 institutional settings, including, but not limited to,
7 promotion of public and professional education to increase
8 awareness of elder abuse, neglect, ~~and~~ financial exploitation,
9 and self-neglect, to increase reports, and to improve response
10 by various legal, financial, social, and health systems;

11 (b) coordination of efforts with other agencies, councils,
12 and like entities, to include but not be limited to, the Office
13 of the Attorney General, the State Police, the Illinois Law
14 Enforcement Training Standards Board, the State Triad, the
15 Illinois Criminal Justice Information Authority, the
16 Departments of Public Health, Public Aid, and Human Services,
17 the Family Violence Coordinating Council, the Illinois
18 Violence Prevention Authority, and other entities which may
19 impact awareness of, and response to, elder abuse, neglect, ~~and~~
20 financial exploitation, and self-neglect;

21 (c) collection and analysis of data;

22 (d) monitoring of the performance of regional
23 administrative agencies and elder abuse provider agencies;

24 (e) promotion of prevention activities;

25 (f) establishing and coordinating ~~establishment and~~
26 ~~coordination of a~~ an aggressive training program on ~~about~~ the
27 unique nature of elder abuse cases with other agencies,
28 councils, and like entities, to include ~~including~~ but not be
29 limited to the Office of the Attorney General, the State
30 Police, the Illinois Law Enforcement Training Standards Board,
31 the State Triad, the Illinois Criminal Justice Information
32 Authority, the State Departments of Public Health, Public Aid,
33 and Human Services, the Family Violence Coordinating Council,
34 the Illinois Violence Prevention Authority, and other entities

1 that may impact awareness of~~r~~ and response to~~r~~ elder abuse,
2 neglect, ~~and~~ financial exploitation, and self-neglect;

3 (g) solicitation of financial institutions for the purpose
4 of making information available to the general public warning
5 of financial exploitation of the elderly and related financial
6 fraud or abuse, including such information and warnings
7 available through signage or other written materials provided
8 by the Department on the premises of such financial
9 institutions, provided that the manner of displaying or
10 distributing such information is subject to the sole discretion
11 of each financial institution; and

12 (h) coordinating ~~coordination of~~ efforts with utility and
13 electric companies to send notices in utility bills to ~~which~~
14 explain to persons 60 years of age or older their ~~elder~~ rights
15 regarding telemarketing and home repair fraud ~~frauds~~.

16 (Source: P.A. 92-16, eff. 6-28-01; 93-300, eff. 1-1-04; 93-301,
17 eff. 1-1-04; revised 1-23-04.)

18 (320 ILCS 20/4) (from Ch. 23, par. 6604)

19 Sec. 4. Reports of abuse or neglect.

20 (a) Any person who suspects the abuse, neglect, ~~or~~
21 financial exploitation, or self-neglect of an eligible adult
22 may report this suspicion to an agency designated to receive
23 such reports under this Act or to the Department.

24 (a-5) If any mandated reporter has reason to believe that
25 an eligible adult, who because of dysfunction is unable to seek
26 assistance for himself or herself, has, within the previous 12
27 months, been subjected to abuse, neglect, ~~or~~ financial
28 exploitation, or self-neglect, the mandated reporter shall,
29 within 24 hours after developing such belief, report this
30 suspicion to an agency designated to receive such reports under
31 this Act or to the Department. Whenever a mandated reporter is
32 required to report under this Act in his or her capacity as a
33 member of the staff of a medical or other public or private

1 institution, facility, board and care home, or agency, he or
2 she shall make a report to an agency designated to receive such
3 reports under this Act or to the Department in accordance with
4 the provisions of this Act and may also notify the person in
5 charge of the institution, facility, board and care home, or
6 agency or his or her designated agent that the report has been
7 made. Under no circumstances shall any person in charge of such
8 institution, facility, board and care home, or agency, or his
9 or her designated agent to whom the notification has been made,
10 exercise any control, restraint, modification, or other change
11 in the report or the forwarding of the report to an agency
12 designated to receive such reports under this Act or to the
13 Department. The privileged quality of communication between
14 any professional person required to report and his or her
15 patient or client shall not apply to situations involving
16 abused, neglected, ~~or~~ financially exploited, or
17 self-neglected, eligible adults and shall not constitute
18 grounds for failure to report as required by this Act.

19 (a-7) A person making a report under this Act in the belief
20 that it is in the alleged victim's best interest shall be
21 immune from criminal or civil liability or professional
22 disciplinary action on account of making the report,
23 notwithstanding any requirements concerning the
24 confidentiality of information with respect to such eligible
25 adult which might otherwise be applicable.

26 (a-9) Law enforcement officers shall continue to report
27 incidents of alleged abuse pursuant to the Illinois Domestic
28 Violence Act of 1986, notwithstanding any requirements under
29 this Act.

30 (b) Any person, institution or agency participating in the
31 making of a report, providing information or records related to
32 a report, assessment, or services, or participating in the
33 investigation of a report under this Act in good faith, or
34 taking photographs or x-rays as a result of an authorized

1 assessment, shall have immunity from any civil, criminal or
2 other liability in any civil, criminal or other proceeding
3 brought in consequence of making such report or assessment or
4 on account of submitting or otherwise disclosing such
5 photographs or x-rays to any agency designated to receive
6 reports of alleged or suspected abuse or neglect. Any person,
7 institution or agency authorized by the Department to provide
8 assessment, intervention, or administrative services under
9 this Act shall, in the good faith performance of those
10 services, have immunity from any civil, criminal or other
11 liability in any civil, criminal, or other proceeding brought
12 as a consequence of the performance of those services. For the
13 purposes of any civil, criminal, or other proceeding, the good
14 faith of any person required to report, permitted to report, or
15 participating in an investigation of a report of alleged or
16 suspected abuse, neglect, or financial exploitation shall be
17 presumed.

18 (c) The identity of a person making a report of alleged or
19 suspected abuse or neglect under this Act may be disclosed by
20 the Department or other agency provided for in this Act only
21 with such person's written consent or by court order.

22 (d) The Department shall by rule establish a system for
23 filing and compiling reports made under this Act.

24 (e) Any physician who willfully fails to report as required
25 by this Act shall be referred to the Illinois State Medical
26 Disciplinary Board for action in accordance with subdivision
27 (A) (22) of Section 22 of the Medical Practice Act of 1987. Any
28 dentist or dental hygienist who willfully fails to report as
29 required by this Act shall be referred to the Department of
30 Professional Regulation for action in accordance with
31 paragraph 19 of Section 23 of the Illinois Dental Practice Act.
32 Any other mandated reporter required by this Act to report
33 suspected abuse, neglect, or financial exploitation who
34 willfully fails to report the same is guilty of a Class A

1 misdemeanor.

2 (Source: P.A. 93-300, eff. 1-1-04; 93-301, eff. 1-1-04.)

3 (320 ILCS 20/4.2)

4 Sec. 4.2. Testimony by mandated reporter and investigator.
5 Any mandated reporter who makes a report or any person who
6 investigates a report under this Act shall testify fully in any
7 judicial proceeding resulting from such report, as to any
8 evidence of abuse, neglect, ~~or~~ financial exploitation, or
9 self-neglect or the cause thereof. Any mandated reporter who is
10 required to report a suspected case of abuse, neglect, ~~or~~
11 financial exploitation, or self-neglect under Section 4 of this
12 Act shall testify fully in any administrative hearing resulting
13 from such report, as to any evidence of abuse, neglect, ~~or~~
14 financial exploitation, or self-neglect or the cause thereof.
15 No evidence shall be excluded by reason of any common law or
16 statutory privilege relating to communications between the
17 alleged abuser or the eligible adult subject of the report
18 under this Act and the person making or investigating the
19 report.

20 (Source: P.A. 90-628, eff. 1-1-99.)

21 (320 ILCS 20/5) (from Ch. 23, par. 6605)

22 Sec. 5. Procedure.

23 (a) A provider agency designated to receive reports of
24 alleged or suspected abuse, neglect, ~~or~~ financial
25 exploitation, or self-neglect under this Act shall, upon
26 receiving such a report, conduct a face-to-face assessment with
27 respect to such report. Face-to-face assessments, casework,
28 and follow-up of reports of self-neglect by the provider
29 agencies designated to receive reports of self-neglect shall be
30 subject to sufficient appropriation for statewide
31 implementation of assessments, casework, and follow-up of
32 reports of self-neglect. In the absence of sufficient

1 appropriation for statewide implementation of assessments,
2 casework, and follow-up of reports of self-neglect, the
3 designated elder abuse provider agency shall refer all reports
4 of self-neglect to the designated case management agency for
5 any appropriate follow-up. The assessment shall include, but
6 not be limited to, a visit to the residence of the eligible
7 adult who is the subject of the report and may include
8 interviews or consultations with service agencies or
9 individuals who may have knowledge of the eligible adult's
10 circumstances. If, after the assessment, the provider agency
11 determines that the case is substantiated it shall develop a
12 service care plan for the eligible adult and may report its
13 findings to the appropriate law enforcement agency. In
14 developing the plan, the provider agency may consult with any
15 other appropriate provider of services, and such providers
16 shall be immune from civil or criminal liability on account of
17 such acts. The plan shall include alternative suggested or
18 recommended services which are appropriate to the needs of the
19 eligible adult and which involve the least restriction of the
20 eligible adult's activities commensurate with his or her needs.
21 Only those services to which consent is provided in accordance
22 with Section 9 of this Act shall be provided, contingent upon
23 the availability of such services.

24 (a-5) The Illinois Department on Aging shall collaborate
25 with representatives of regional administrative agencies,
26 provider agencies, local law enforcement agencies, State's
27 Attorneys, the Illinois Department of State Police, the
28 Illinois Attorney General, the Illinois Criminal Justice
29 Information Authority, and others, as appropriate, to develop a
30 protocol for dissemination within one year after the effective
31 date of this amendatory Act of the 94th General Assembly. The
32 protocol shall outline (i) the procedure for referral of cases
33 involving elder abuse, neglect, financial exploitation, and
34 self-neglect; (ii) the access to records and information; and

1 (iii) the procedure for development of working agreements
2 between provider agencies and law enforcement, where
3 practicable.

4 (b) A provider agency shall refer evidence of crimes
5 against an eligible adult to the appropriate law enforcement
6 agency according to Department policies. A referral to law
7 enforcement may be made at intake or any time during the case.
8 Where a provider agency has reason to believe the death of an
9 eligible adult may be the result of abuse or neglect, the
10 agency shall immediately report the matter to the coroner or
11 medical examiner and shall cooperate fully with any subsequent
12 investigation.

13 (c) If any person other than the alleged victim refuses to
14 allow the provider agency to begin an investigation, interferes
15 with the provider agency's ability to conduct an investigation,
16 or refuses to give access to an eligible adult, the appropriate
17 law enforcement agency must be consulted regarding the
18 investigation.

19 (d) A representative of a provider agency, while
20 investigating a report of alleged or suspected abuse, neglect,
21 financial exploitation, or self-neglect, may, with the
22 eligible adult's consent if he or she is able to consent, take
23 or cause to be taken photographs, videotapes, and digital or
24 electronic recordings of the eligible adult, and of his or her
25 environment, that are relevant to the investigation. All
26 photographs, videotapes, and digital or electronic recordings
27 taken during the course of the investigation are to be treated
28 as records and shall be used only as other records are allowed
29 to be used under this Act.

30 (e) If a provider agency has reason to believe that records
31 not in its possession would be of assistance in an
32 investigation of suspected abuse, neglect, financial
33 exploitation, or self-neglect under this Act, then the provider
34 agency may petition the chief judge, or another judge

1 designated by the chief judge, of the judicial circuit in which
2 the eligible adult resides for the issuance of a subpoena to
3 the holder of the records sought by the provider agency. Upon a
4 showing by the provider agency that the records are relevant to
5 the investigation and upon notice to the holder of the records
6 and notice to the eligible adult or his or her guardian, the
7 court shall direct that a subpoena shall issue to the holder of
8 the records. All records disclosed pursuant to a subpoena
9 issued under this Section shall be treated as records under
10 Section 8 of this Act.

11 (Source: P.A. 90-628, eff. 1-1-99.)

12 (320 ILCS 20/8) (from Ch. 23, par. 6608)

13 Sec. 8. Access to records. All records concerning reports
14 of elder abuse, neglect, ~~and~~ financial exploitation, or
15 self-neglect and all records generated as a result of such
16 reports shall be confidential and shall not be disclosed except
17 as specifically authorized by this Act or other applicable law.
18 Access to such records, but not access to the identity of the
19 person or persons making a report of alleged abuse, neglect, ~~or~~
20 financial exploitation, or self-neglect as contained in such
21 records, shall be provided, upon request, ~~allowed~~ to the
22 following persons and for the following persons:

23 (1) Department staff, provider agency staff, other aging
24 network staff, and regional administrative agency staff, including staff of the Chicago Department on Aging while that
25 agency is designated as a regional administrative agency, in
26 the furtherance of their responsibilities under this Act;

28 (2) A law enforcement agency investigating known or
29 suspected elder abuse, neglect, ~~or~~ financial exploitation, or
30 self-neglect. Where a provider agency has reason to believe
31 that the death of an eligible adult may be the result of abuse
32 or neglect, the agency shall immediately provide the
33 appropriate law enforcement agency with all records pertaining

1 to the eligible adult;

2 (3) A physician who has before him or her or who is
3 involved in the treatment of an eligible adult whom he or she
4 reasonably suspects may be abused, neglected, ~~or~~ financially
5 exploited, or self-neglected or who has been referred to the
6 Elder Abuse and Neglect Program;

7 (4) An eligible adult reported to be abused, neglected, ~~or~~
8 financially exploited, or self-neglected, or such adult's
9 guardian unless such guardian is the abuser or the alleged
10 abuser;

11 (5) A court or a guardian ad litem, upon its or his or her
12 finding that access to such records may be necessary for the
13 determination of an issue before the court. However, such
14 access shall be limited to an in camera inspection of the
15 records, unless the court determines that disclosure of the
16 information contained therein is necessary for the resolution
17 of an issue then pending before it;

18 (6) A grand jury, upon its determination that access to
19 such records is necessary in the conduct of its official
20 business;

21 (7) Any person authorized by the Director, in writing, for
22 audit or bona fide research purposes;

23 (8) A coroner or medical examiner who has reason to believe
24 that an eligible adult has died as the result of abuse,
25 neglect, ~~or~~ financial exploitation, or self-neglect. The
26 provider agency shall immediately provide the coroner or
27 medical examiner with all records pertaining to the eligible
28 adult; ~~and~~

29 (9) Department of Professional Regulation staff and
30 members of the Social Work Examining and Disciplinary Board in
31 the course of investigating alleged violations of the Clinical
32 Social Work and Social Work Practice Act by provider agency
33 staff; and.

34 (10) The State's Attorney of the judicial circuit in which

1 the eligible adult resides or in which the alleged crime
2 occurred or the Office of the Attorney General, or their
3 authorized representatives, after the law enforcement agency
4 with jurisdiction over the matter opens a criminal
5 investigation.

6 (Source: P.A. 89-387, eff. 8-20-95; 90-628, eff. 1-1-99.)

7 (320 ILCS 20/8.5 new)

8 Sec. 8.5. Cooperation with law enforcement agencies.

9 (a) The Department and all provider agencies shall work
10 with any law enforcement agency conducting any criminal
11 investigation arising from allegations of abuse, neglect, or
12 financial exploitation of an eligible adult. The Department,
13 all provider agencies, and law enforcement agencies shall
14 cooperate to allow the criminal investigation to proceed
15 concurrently with, and not be hindered by, any investigations
16 conducted by provider agencies.

17 (b) Upon request of the law enforcement agency, the
18 Department and all provider agencies shall provide, to any law
19 enforcement agency conducting any criminal investigation
20 arising from allegations of abuse, neglect, or financial
21 exploitation of an eligible adult, all relevant information and
22 records from provider agency investigations.

23 (c) Any law enforcement officer may make an arrest without
24 a warrant if the officer has probable cause to believe that the
25 person has committed or is committing any crime, including, but
26 not limited to, criminal abuse or neglect of an elderly person
27 under Section 12-21 of the Criminal Code of 1961 or a violation
28 of an order of protection under Section 12-30 of the Criminal
29 Code of 1961, even if the crime was not committed in the
30 presence of the officer. The law enforcement officer may verify
31 the existence of an order of protection under Section 12-30 of
32 the Criminal Code of 1961 by telephone or radio communication
33 with his or her law enforcement agency or by referring to the

1 copy of the order provided by the petitioner or respondent.

2 (320 ILCS 20/9) (from Ch. 23, par. 6609)

3 Sec. 9. Authority to consent to services.

4 (a) If an eligible adult consents to services being
5 provided according to the service care plan, such services
6 shall be arranged to meet the adult's needs, based upon the
7 availability of resources to provide such services. If an adult
8 withdraws his or her consent or refuses to accept such
9 services, the services shall not be provided.

10 (b) If it reasonably appears to the Department or other
11 agency designated under this Act that a person is an eligible
12 adult and lacks the capacity to consent to necessary services,
13 including an assessment, the Department or other agency may
14 seek the appointment of a guardian as provided in Article XIa
15 of the Probate Act of 1975 for the purpose of consenting to
16 such services.

17 (c) A guardian of the person of an eligible adult may
18 consent to services being provided according to the service
19 care plan. If a guardian withdraws his or her consent or
20 refuses to allow services to be provided to the eligible adult,
21 the Department, an agency designated under this Act, or the
22 office of the Attorney General may request a court order
23 seeking appropriate remedies, and may in addition request
24 removal of the guardian and appointment of a successor
25 guardian.

26 (d) If an emergency exists and the Department or other
27 agency designated under this Act reasonably believes that a
28 person is an eligible adult and lacks the capacity to consent
29 to necessary services, the Department or other agency may
30 request an ex parte order from the circuit court of the county
31 in which the petitioner or respondent resides or in which the
32 alleged abuse, neglect, ~~or~~ financial exploitation, or
33 self-neglect occurred, authorizing an assessment of a report of

1 alleged or suspected abuse, neglect, ~~or~~ financial
2 exploitation, or self-neglect or the provision of necessary
3 services, or both, including relief available under the
4 Illinois Domestic Violence Act of 1986. Petitions filed under
5 this subsection shall be treated as expedited proceedings.

6 (e) Within 15 days after the entry of the ex parte
7 emergency order, the order shall expire, or, if the need for
8 assessment or services continues, the provider agency shall
9 petition for the appointment of a guardian as provided in
10 Article XIa of the Probate Act of 1975 for the purpose of
11 consenting to such assessment or services or to protect the
12 eligible adult from further harm.

13 (Source: P.A. 90-628, eff. 1-1-99.)

14 (320 ILCS 20/13)

15 Sec. 13. Access.

16 (a) The designated provider agencies shall have access to
17 eligible adults who have been reported or found to be victims
18 of abuse, neglect, ~~or~~ financial exploitation, or self-neglect
19 in order to assess the validity of the report, assess other
20 needs of the eligible adult, and provide services in accordance
21 with this Act.

22 (b) Where access to an eligible adult is denied, the Office
23 of the Attorney General, the Department, or the provider agency
24 may petition the court for an order to require appropriate
25 access where:

26 (1) a caregiver or third party has interfered with the
27 assessment or service plan, or

28 (2) the agency has reason to believe that the eligible
29 adult is denying access because of coercion, extortion, or
30 justifiable fear of future abuse, neglect, or financial
31 exploitation.

32 (c) The petition for an order requiring appropriate access
33 shall be afforded an expedited hearing in the circuit court.

1 (d) If the elder abuse provider agency has substantiated
2 financial exploitation against an eligible adult, and has
3 documented a reasonable belief that the eligible adult will be
4 irreparably harmed as a result of the financial exploitation,
5 the Office of the Attorney General, the Department, or the
6 provider agency may petition for an order freezing the assets
7 of the eligible adult. The petition shall be filed in the
8 county or counties in which the assets are located. The court's
9 order shall prohibit the sale, gifting, transfer, or wasting of
10 the assets of the eligible adult, both real and personal, owned
11 by, or vested in, the eligible adult, without the express
12 permission of the court. The petition to freeze the assets of
13 the eligible adult shall be afforded an expedited hearing in
14 the circuit court.

15 (Source: P.A. 90-628, eff. 1-1-99.)

16 Section 10. The Criminal Code of 1961 is amended by
17 changing Section 16-1.3 as follows:

18 (720 ILCS 5/16-1.3) (from Ch. 38, par. 16-1.3)

19 Sec. 16-1.3. Financial exploitation of an elderly person or
20 a person with a disability.

21 (a) A person commits the offense of financial exploitation
22 of an elderly person or a person with a disability when he or
23 she stands in a position of trust or confidence with the
24 elderly person or a person with a disability and he or she
25 knowingly and by deception or intimidation obtains control over
26 the property of an elderly person or a person with a disability
27 or illegally uses the assets or resources of an elderly person
28 or a person with a disability. The illegal use of the assets or
29 resources of an elderly person or a person with a disability
30 includes, but is not limited to, the misappropriation of those
31 assets or resources by undue influence, breach of a fiduciary
32 relationship, fraud, deception, extortion, or use of the assets

1 or resources contrary to law.

2 Financial exploitation of an elderly person or a person
3 with a disability is a Class 4 felony if the value of the
4 property is \$300 or less, a Class 3 felony if the value of the
5 property is more than \$300 but less than \$5,000, a Class 2
6 felony if the value of the property is \$5,000 or more but less
7 than \$100,000 and a Class 1 felony if the value of the property
8 is \$100,000 or more or if the elderly person is over 70 years
9 of age and the value of the property is \$15,000 or more or if
10 the elderly person is 80 years of age or older and the value of
11 the property is \$5,000 or more.

12 (b) For purposes of this Section:

13 (1) "Elderly person" means a person 60 years of age or
14 older.

15 (2) "Person with a disability" means a person who
16 suffers from a ~~permanent~~ physical or mental impairment
17 resulting from disease, injury, functional disorder or
18 congenital condition that impairs the individual's mental
19 or physical ability to independently manage his or her
20 property or financial resources, or both.

21 (3) "Intimidation" means the communication to an
22 elderly person or a person with a disability that he or she
23 shall be deprived of food and nutrition, shelter,
24 prescribed medication, ~~or~~ medical care and treatment, or
25 contact with that person's family members or care provider.
26 "Intimidation" also means the communication to an elderly
27 person or a person with a disability that he or she will be
28 unnecessarily moved from his or her current residence to
29 another residence or to a facility.

30 (4) "Deception" means, in addition to its meaning as
31 defined in Section 15-4 of this Code, a misrepresentation
32 or concealment of material fact relating to the terms of a
33 contract or agreement entered into with the elderly person
34 or person with a disability or to the existing or

1 pre-existing condition of any of the property involved in
2 such contract or agreement; or the use or employment of any
3 misrepresentation, false pretense or false promise in
4 order to induce, encourage or solicit the elderly person or
5 person with a disability to enter into a contract or
6 agreement.

7 (c) For purposes of this Section, a person stands in a
8 position of trust and confidence with an elderly person or
9 person with a disability when he (1) is a parent, spouse, adult
10 child or other relative by blood or marriage of the elderly
11 person or person with a disability, (2) is a joint tenant or
12 tenant in common with the elderly person or person with a
13 disability, (3) has a legal or fiduciary relationship with the
14 elderly person or person with a disability, or (4) is a
15 financial planning or investment professional.

16 (d) Nothing in this Section shall be construed to limit the
17 remedies available to the victim under the Illinois Domestic
18 Violence Act of 1986.

19 (e) Nothing in this Section shall be construed to impose
20 criminal liability on a person who has made a good faith effort
21 to assist the elderly person or person with a disability in the
22 management of his or her property, but through no fault of his
23 or her own has been unable to provide such assistance.

24 (f) It shall not be a defense to financial exploitation of
25 an elderly person or person with a disability that the accused
26 reasonably believed that the victim was not an elderly person
27 or person with a disability.

28 (g) Civil Liability. A person who is charged by information
29 or indictment with the offense of financial exploitation of an
30 elderly person or person with a disability and who fails or
31 refuses to return the victim's property within 60 days
32 following a written demand from the victim or the victim's
33 legal representative shall be liable to the victim or to the
34 estate of the victim in damages of treble the amount of the

1 value of the property obtained, plus reasonable attorney fees
2 and court costs. The burden of proof that the defendant
3 unlawfully obtained the victim's property shall be by a
4 preponderance of the evidence. This subsection shall be
5 operative whether or not the defendant has been convicted of
6 the offense.

7 (Source: P.A. 92-808, eff. 8-21-02; 93-301, eff. 1-1-04.)".